

APPENDIX E

CRIMINAL HISTORY BACKGROUND CHECK PROCEDURE

1.0 Purpose

As authorized by Federal Regulation 24 C.F.R. 5.903 Subpart J, which states that a PHA may obtain criminal conviction records from law enforcement agencies to prevent admission of criminals to the Section 8 Housing Choice Voucher Program, and Federal Regulations 24 C.F.R 982.553 which authorizes PHAs to deny admission and to terminate assistance to persons who have engaged in “drug-related”, “violent” or “other criminal activity” that would threaten the health, safety or right to peaceful enjoyment of other residents, the owner, or PHA Personnel, the Minneapolis Public Housing Authority (MPHA) adopted a Section 8 Housing Choice Voucher Program Criminal History Background Check Procedure.

MPHA’s Section 8 Housing Choice Voucher Program will examine applicant and participant families’ background – including port-in participants and adult members of the families - for criminal activity as noted above. MPHA’s request for criminal records will also include registered sex offender status as authorized under the authority of United States Code 13663, to prevent dangerous sex offenders to federally assisted housing.

MPHA may deny admission or terminate assistance to a person who does not provide accurate and complete information or who does not cooperate with the process.

MPHA has no liability or responsibility to property owners, managers or other persons for the family’s behavior or conduct while in tenancy. Property owners and managers are responsible for screening tenants.

A. Mandatory Criminal History Background Checks

MPHA Section 8 must perform a criminal history background check to determine whether any household member:

1. Is subject to a lifetime sex offender registration in Minnesota or other states where the household member is known to have resided; or
2. Was convicted of drug related criminal activity for methamphetamine production on the premises of any federally assisted housing.

B. Authorized Criminal History Background Checks

MPHA Section 8 will perform a criminal history background check to determine if any household member has engaged in any drug-related criminal activity; any violent criminal activity; or any other criminal activity that would threaten the health, safety, welfare, or right to peaceful enjoyment of other residents, the owner, or MPHA staff, contractors or subcontractors.

2.0 Authorizations Permitting the Release of Records

Every applicant and participant, including port-in participants, shall provide Section 8 with a consent form signed by each adult household member to permit MPHA to obtain criminal records. Section 8 will perform a check of local and national records to check for criminal conviction histories. If the records indicate criminal activity MPHA will determine eligibility based upon MPHA's Applicant Screening Guidelines.

If MPHA denies admission or terminates assistance based upon criminal background records Section 8 will:

- A. Provide a copy of the criminal record to the subject of the record; and
- B. Give the subject of the criminal record an opportunity to dispute the accuracy and relevance of that record.

If Section 8 denies admission or terminates participation, the applicant or port in participant may timely make a written request for an informal review in accordance with federal regulation.

If MPHA determines the applicant is ineligible, MPHA will remove the applicant from the Waiting List. The applicant may reapply when the Section 8 Waiting List is reopened. If MPHA determines a port in participant is ineligible MPHA will take action to terminate program participation. If MPHA determines that a participant has engaged in drug related criminal activity or violent criminal activity, or criminal activity that threatens the health, safety, welfare or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises, the owner or MPHA Personnel, MPHA will terminate program participation.

MPHA shall pay for the costs of obtaining the criminal records and provide a copy of the record to the applicants and participants who are denied or terminated. However, applicants and participants shall pay for the costs of other records or other documents that they obtain to use to refute the accuracy of the records presented by MPHA.

MPHA will deny admission or terminate assistance to any person who does not sign consent forms or who refuse to cooperate with the criminal history background check.

3.0 Record Maintenance

The MPHA will keep criminal records confidential and will not misuse or improperly disseminate them. MPHA may use criminal records to screen applicants, to terminate assistance or in court or administrative hearings.

MPHA will not place the criminal records in the participants' files. MPHA will disclose the records to MPHA's officers or employees or authorized representatives or persons who have a job related need for the information. If MPHA discloses the criminal records in a judicial proceeding, MPHA is not responsible for controlling access to or knowledge of the records after the disclosure. See 24 C.F.R. 5.903 (e) (2) (iv).

4.0 Record Disposition

MPHA will destroy the criminal records and sex offender records after MPHA's purpose for which the records were requested is accomplished and all applicable statutes of limitations have run.

5.0 Project-Based Criminal Records' Principle

Within the Project Based Voucher Program there may be housing communities that provide housing and services to individuals and families who have criminal histories and/or other related conduct (with exception of lifetime registered sex offenders and applicants convicted of drug related criminal activity for methamphetamine production on the premises of federally assisted housing).

Where a specific Project Based Voucher housing community allows for participants with criminal histories and/or other related conduct and the applicant or participant meets all other MPHA and MPHA's partner requirements for eligibility, MPHA may permit participation in the specific Project Based Housing Program. If, after one year of participation, the individual or family wants to obtain a tenant based voucher, the individual or family shall qualify under MPHA Applicant Screening Guidelines like all applicants on MPHA's tenant based voucher waitlist.

6.0 Definitions

Adult means a person who is 18 years of age or older or who was convicted of a crime as an adult under federal, state, or tribal law.

Applicant means anyone applying to the Section 8 Housing Choice Voucher Program including additions to currently assisted households.

Drug means a controlled substance as defined in section 102 of the Controlled Substance Act (21 U.S.C. 802).

Drug-Related Criminal Activity means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug. Also, illegal means any activity, even in the absence of an arrest or conviction that violates a state statute, ordinance, charter provision, rule or regulation governed by the Minnesota Rules of Criminal Procedures..

Law Enforcement Agency is the National Crime Information Center (NCIC), police departments, and other law enforcement agencies that hold criminal conviction records.

Port in Participant is a family that was issued a Housing Choice Voucher from a housing agency anywhere in the United States and elects to use that voucher to move into Minneapolis.

Violent Criminal Activity is any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

7.0 Conflict and Scope

This Policy does not enlarge MPHA's duty under any law, regulation or ordinance. If this Policy conflicts with the applicable law, regulation or ordinance, the law, regulation or ordinance shall control. If this Policy conflicts with another MPHA policy such another provision of the Section 8/HCV Administration Plan, this Policy will control.